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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,307	12/12/2003	Tsutomu Muraoka	SN-US025011A	7330
22919	7590	12/08/2004	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			LUONG, VINH	
			ART UNIT	PAPER NUMBER
			3682	
DATE MAILED: 12/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,307

Applicant(s)

MURAOKA ET AL.

Examiner

Vinh T Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 19-37 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 19-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Attachments # 1 and 2.

1. Applicant's election without traverse of the species of Figs. 27 and 28 in the reply filed on November 17, 2004 is acknowledged.
2. Claims 1 and 19-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 17, 2004.
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 29-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether the terms that appear at least twice such as "a pair of laterally spaced projections" and "a forwardly facing tip surface" in claim 29 refer to the same or different things. See MPEP § 2173.05(o). Applicant is respectfully urged to identify each claimed element with reference to the drawings.

The recitation such as "a cleat engagement mechanism coupled to an upper surface of said pedal body and arranged *to move between a clamping position and a release position*" (emphasis added) in claim 29 is imprecise and inconsistent with claim 30 because the front clamping member 124 of the cleat engagement mechanism is fixed, only the rear clamping member 26 of the cleat engagement mechanism is moved.

The term "substantially" in claim 33 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably

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apprised of the scope of the invention. For example, it is unclear what degree of deviation from parallel is required in order to be "substantially parallel."

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 29-37, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Nagano'549 (US Patent No. 4,928,549 cited by Applicant).

Regarding claim 29, Nagano'549 teaches a bicycle pedal comprising:

a pedal shaft 1 having a first end (see Attachment # 2) adapted to be coupled to a bicycle crank and a second end (Att. # 1) with a center rotation axis (Att. # 1) extending between said-first and second ends;

a pedal body 2 rotatably coupled to said second end (Att. # 1) of said pedal shaft 1 about said center rotation axis (Att. # 1) of said pedal shaft 1, said pedal body 2 having a front end (Att. # 1) and a rear end (Att. # 1) with said front end (Att. # 1) of said pedal body 2 being configured and arranged to include a sole guide portion 22 that assists in rotating said pedal body 2 about said pedal shaft 1, said sole guide portion 22 including a pair of laterally spaced projections (Att. # 1) located on said upper surface of said pedal body 2 adjacent a forwardly facing tip surface, said sole guide portion 22 including a pair of laterally spaced projections (Att. # 1) located on a forwardly facing tip surface of said pedal body; and

a cleat engagement mechanism 22, 5, 6, 52, 62 coupled to an upper surface of said pedal body 2 and arranged to move between a clamping position and a release position.

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Regarding claim 30, said cleat engagement mechanism 22, 5, 6, 52, 62 includes a front clamping member 22 coupled to said front end of said pedal body 2, and a rear clamping member 6, 62 movably coupled to said rear end of said pedal body 2.

Regarding claim 31, said front clamping member 22 includes a downwardly facing front cleat engagement surface (Att. # 1) disposed in a first plane (Att. # 1), and said rear clamping member includes a downwardly facing rear cleat engagement surface (Att. # 1) disposed in a second plane (Att. # 1) that is offset from said first plane (Att. # 1) of said front cleat engagement surface (Att. # 1).

Regarding claim 32, said front clamping member 22 includes a rearwardly facing front pedal control surface (Att. # 1), said rear clamping member 6, 62 includes a forwardly facing rear pedal control surface (Att. # 1).

Regarding claim 33, said front and rear cleat engagement surfaces (Att. # 1) are *substantially* parallel.

Regarding claim 34, said first plane (Fig. 1 of Att. # 1) of said front cleat engagement surface 22 is closer to said center rotation axis (Att. # 1) than said second plane (Att. # 1) of said rear cleat engagement surface (Att. # 1) as measured in a direction perpendicular to said first and second planes (Att. # 1).

Regarding claim 35, said front clamping member 22 is non-movably coupled to said pedal body 2.

Regarding claim 36, said front clamping member 22 is integrally formed with said pedal body 2 as a one-piece, unitary member.

Regarding claim 37, said rear clamping member 6, 62 is pivotally coupled to said pedal body 2.

7. Claims 29-37, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Takahama'739 (US Patent No. 5,778,739).

Regarding claim 29, Takahama'739 teaches a bicycle pedal comprising:

a pedal shaft 52 having a first end 50 (Fig. 7) adapted to be coupled to a bicycle crank 14 and a second end with a center rotation axis A extending between said-first and second ends;

a pedal body 20 rotatably coupled to said second end of said pedal shaft 52 about said center rotation axis A of said pedal shaft 52, said pedal body 20 having a front end and a rear end with said front end of said pedal body 20 being configured and arranged to include a sole guide portion 64 (Fig. 5) that assists in rotating said pedal body 20 about said pedal shaft 52, said sole guide portion 64 including a pair of laterally spaced projections (see Attachment # 2) located on said upper surface 4 of said pedal body 20 adjacent a forwardly facing tip surface, said sole guide portion 64 including a pair of laterally spaced projections (Att. # 2) located on a forwardly facing tip surface of said pedal body 20; and

a cleat engagement mechanism 26, 24 coupled to an upper surface of said pedal body 20 and arranged to move between a clamping position and a release position.

Regarding claim 30, said cleat engagement mechanism 26, 24 includes a front clamping member 24 coupled to said front end of said pedal body 20, and a rear clamping member 26 movably coupled to said rear end of said pedal body 20.

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Regarding claim 31, said front clamping member 24 includes a downwardly facing front cleat engagement surface 66 (Fig. 8. *Id.*, col. 6, line 27 *et seq.*) disposed in a first plane P₁ (Att. # 2), and said rear clamping member 26 includes a downwardly facing rear cleat engagement surface 82 (Fig. 1) disposed in a second plane P₂ that is offset from said first plane P₁ of said front cleat engagement surface 66.

Regarding claim 32, said front clamping member 24 includes a rearwardly facing front pedal control surface 60 (Fig. 8, Att. # 2), said rear clamping member 26 includes a forwardly facing rear pedal control surface 78 (Fig. 6, Att. # 2).

Regarding claim 33, said front and rear cleat engagement surfaces 66 and 82 are *substantially* parallel.

Regarding claim 34, said first plane P₁ of said front cleat engagement surface 66 is closer to said center rotation axis A than said second plane P₂ of said rear cleat engagement surface 82 as measured in a direction perpendicular to said first and second planes (Fig. 6).

Regarding claim 35, said front clamping member 24 is non-movably coupled to said pedal body 20.

Regarding claim 36, said front clamping member 24 is integrally formed with said pedal body 20 as a one-piece, unitary member.

Regarding claim 37, said rear clamping member 26 is pivotally coupled to said pedal body 20.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Steinberg (projections 30b), Heim (projection 230d in Fig. 2b), Romano (projection 14), Nagano'680 (Fig. 2), and Muraoka (Figs. 1-22).

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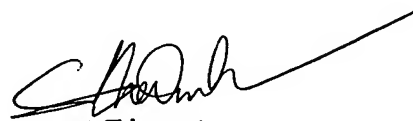
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

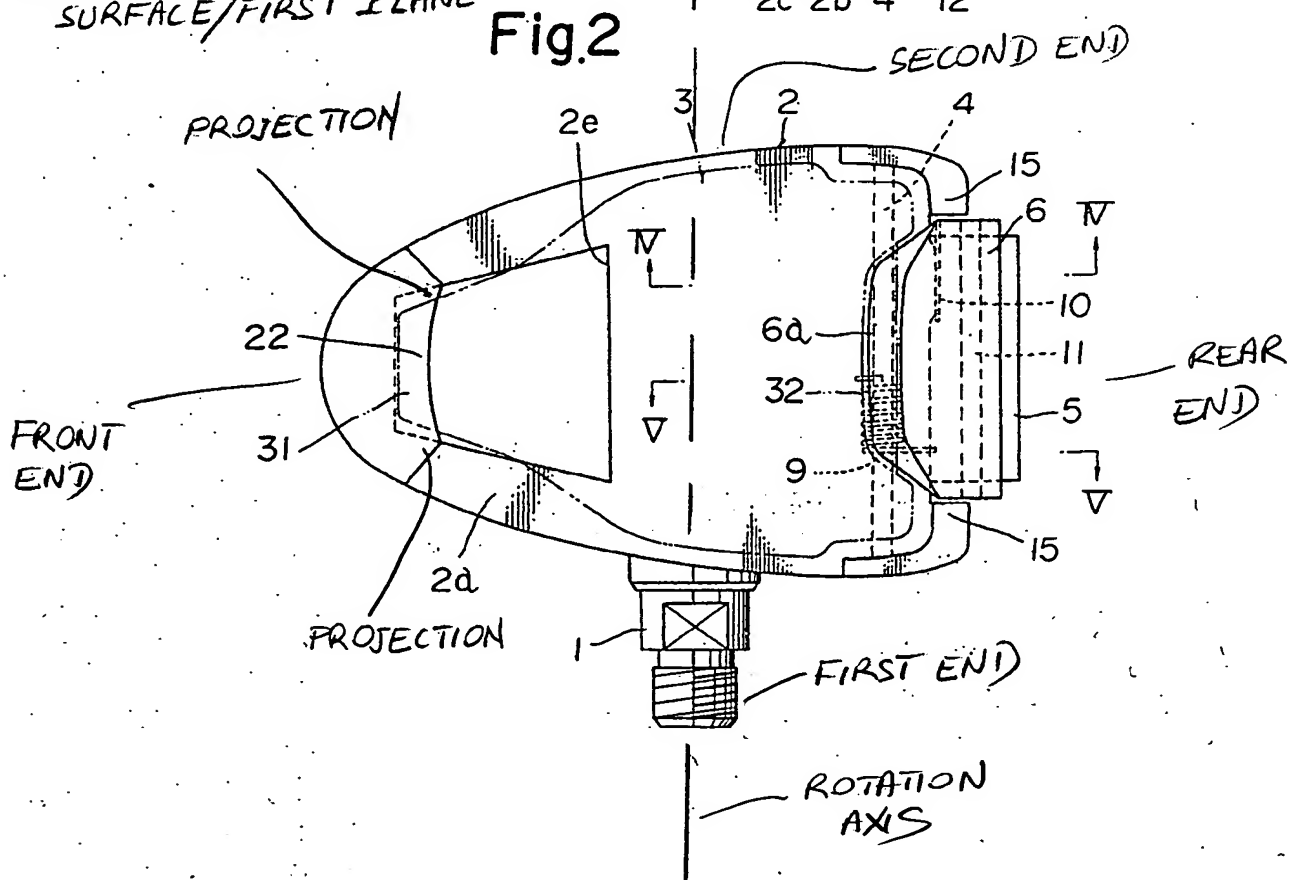
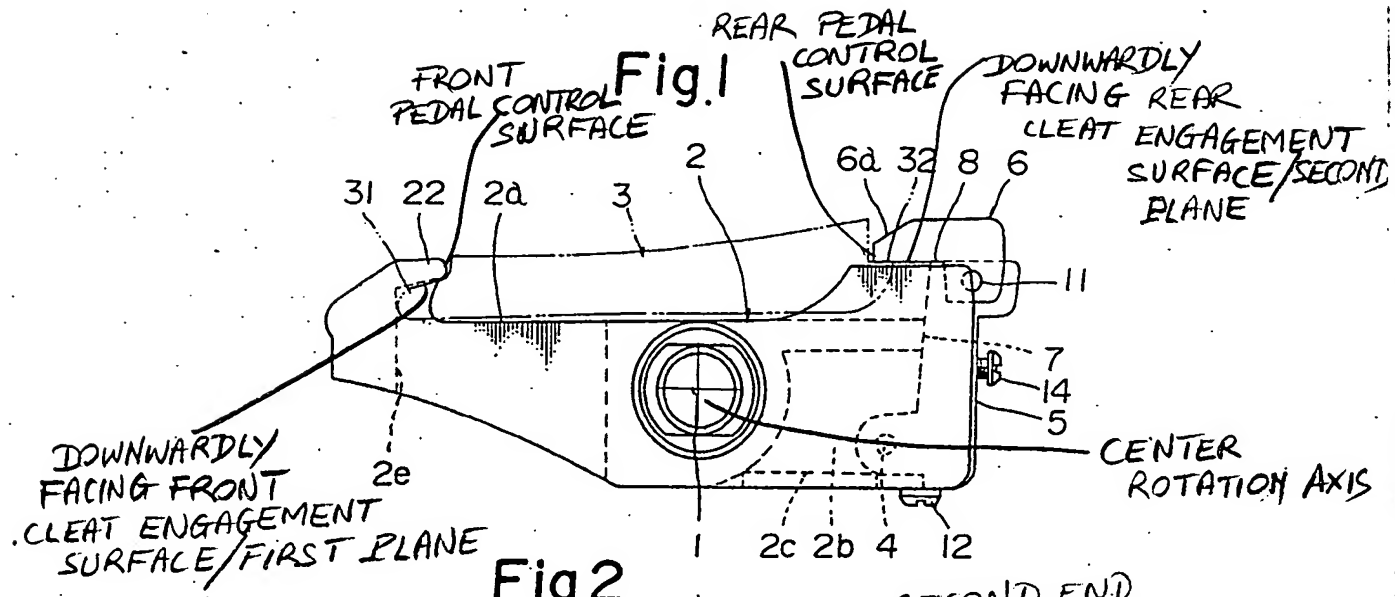
Luong

November 29, 2004



Vinh T. Luong
Primary Examiner

ATTACHMENT # 1



ATTACHMENT # 2

